GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:3599
ANSWERED ON:08.08.2016
Dispute with Investors
Roy Prof. Saugata

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether the Government is concerned about the disputes with investors like the recent instance of Cairn Energy, which sought $5.6 billion in compensation on a tax dispute case;

(b) if so, the details thereof along with the steps taken to solve the investor State disputes in future;

(c) whether these types of litigations will affect India"s export promotions; and

(d) if so, the details thereof along with the remedial measures taken by the Government in this regard?

Answer

??????? ??? ?????? ??????????? (???????? ??????)(??????? ??????? ???????)
THE MINISTER OF STATE (INDEPENDENT CHARGE)
OF THE MINISTRY OF COMMERCE & INDUSTRY
(SHRIMATI NIRMALA SITHARAMAN)

(a)&(b): The Government has received dispute notices from investors on the Bilateral Investment Treaties (BITs), which were signed by the Government on the basis of old Model Text of 1993. Cairn Energy Plc. and Cairn UK Holdings Limited have initiated international arbitration under the India-UK Bilateral Investment Protection and Promotion Agreement (BIPA), wherein it has sought $ 5.6 billion in compensation from the Republic of India. Arbitrators have been appointed and the proceedings have initiated.

In order to minimize such investor related disputes in future, the Government has recently revised its model Bilateral Investment Treaty (BIT) text which aims at providing investor protection within the overall framework of laws and policies regulating foreign investment in India keeping in mind the interests of the nation. The revised Model BIT will form the basis of negotiation for future BITs. Further, in the new Model BIT, taxation matters have been excluded keeping in view of the fact that taxation is an integral function of the State's sovereignty and hence such matters need not be escalated under Treaty dispute settlement mechanism.

(c): No, Madam. There is no evidence to suggest that export promotions have been affected by such litigations.

(d): In view of answer to part (c) above, question does not arise.

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